

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LEROY JONES,

Plaintiff,

v.

JEFFERY A. MILLER, Corrections Officer,

Defendants.

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FILED

2007 NOV 27 PM 12:56

U.S. DISTRICT COURT  
W.D.N.Y. - BUFFALO

-PS-O-

**ORDER**

02-CV-0847(F)

The parties have consented, pursuant to 28 U.S.C. § 636(c), to have the undersigned conduct all further proceedings in this matter, including entry of final judgment. Dkt. # 50.

On November 16, 2007, plaintiff's court-appointed counsel filed a motion to extend the time to serve the summons and amended complaint on the four remaining "unserved" defendants--Glenn Goord, former Commissioner of the New York State Department of Correctional Services ("DOCS"), Carol Kunes, R.N., Attica Correctional Facility, Michael McGinnis, Superintendent, Southport Correctional Facility, and Calvin West, former Superintendent, Elmira Correctional Facility--and determine an appropriate method of service on said defendants. Dkt. # 81. The court had previously granted plaintiff permission to proceed *in forma pauperis*, Dkt. #s 5, and had directed the Clerk of the Court to cause the U.S. Marshals Service to serve the summons and amended complaint on the six additional defendants that were named in the amended complaint. Dkt. # 75. Summonses were issued and on October 19, 2007, summonses were returned as unexecuted as to defendants Goord, Kunes, McGinnis and West with a notation on the Marshal Forms (USM-285): "Return No Service-No response received from dept." Dkt. # 79.

On November 16, 2007, the court granted plaintiff a 120-day extension to serve the summons and amended complaint on Goord, Kunes, McGinnis and West. Dkt. # 82.

In order to assist plaintiff's counsel to serve the summons and amended complaint on Goord, Kunes, McGinnis and West, all of whom are or were employed by DOCS, the court requests the New York State Attorney General's Office, which has appeared for some of the defendants in this matter and in all likelihood will appear for these four defendants upon service, to ascertain proper addresses for where these defendants can be served pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam).<sup>1</sup> The Attorney General's Office need not undertake to defend or indemnify these individuals at this juncture. This order merely provides a means by which plaintiff may properly serve the defendants.

The Attorney General's Office is hereby requested to produce the information specified above by **December 31, 2007**. Once this information is provided amended summonses shall be issued and the Court shall direct service on Goord, Kunes, McGinnis and West. The Clerk of Court shall send a copy of this Order and the amended complaint to Ann Williams, Assistant Attorney General, New York State Attorney General's Office, 107 Delaware Avenue, Fourth Floor, Buffalo, NY 14202.

SO ORDERED.

  
LESLIE G. FOSCHIO  
UNITED STATES MAGISTRATE JUDGE

Dated: Nov. 27<sup>th</sup>, 2007  
Buffalo, New York

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<sup>1</sup>Plaintiff's counsel shall not disclose to anyone, including plaintiff, other than the U.S. Marshals Service, the information provided by the Attorneys General's Office